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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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~~DEC 11 2003~~

~~Federal Communications Commission
Bureau/Office~~

In the Matter of

Maritel, Inc. Petition for Declaratory Ruling)
and National Telecommunications)
and Information Administration)
Petition for Rulemaking Regarding)
the Use of Maritime VHF Channels 87B and 88B)

DA 03-3585

RM-10821

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Federal Communications Commission
Office of the Secretary

**REPLY COMMENTS
OF THE**

AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION

✓ To: Wireless Telecommunications Bureau

The American Mobile Telecommunications Association, Inc. ("AMTA" or "Association"), by its attorneys and in accordance with Section 1.415 of the Federal Communications Commission ("FCC" or "Commission") rules and regulations, respectfully submits its reply comments in the above-entitled proceeding.¹ The Public Notice seeks comment on a petition for declaratory ruling filed by MarITEL, Inc. ("Maritel") regarding the use of VHF maritime Channels 87B and 88B as well as a petition for rulemaking filed by the National Telecommunications and Information Administration ("NTIA") in reference to the same channels. By these reply comments AMTA is not taking a position on the merits of the dispute between Maritel and NTIA. Instead, AMTA cautions the Wireless Telecommunications Bureau ("WTB") in determining the outcome of this proceeding to preserve the integrity of the auction process.

STABCODE

¹ "Wireless Telecommunications Bureau Seeks Comment on Maritel, Inc. Petition for Declaratory Ruling and National Telecommunications and Information Administration Petition for Rulemaking Regarding the Use of Maritime VHF Channels 87B and 88B," *Public Notice*, DA 03-3585 (rel. Nov. 7, 2003) ("Public Notice").

I. INTRODUCTION

AMTA is a nationwide, non-profit trade association dedicated to the interests of the specialized wireless communications industry. The Association's members include trunked and conventional 800 MHz and 900 MHz Specialized Mobile Radio ("SMR") operators, and commercial licensees in the 220 MHz and 450-512 MHz bands. Many of AMTA's members are Commercial Radio Service Providers ("CMRS") and are authorized to provide land-based as well as maritime service. Collectively AMTA's members provide commercial wireless services to millions of end user subscribers. Accordingly, AMTA's members have an interest in the outcome of this proceeding.

II. DISCUSSION

As noted by the Public Notice, Maritel was the high bidder for VHF Public Coast ("VPC") spectrum the Commission auctioned in 1999.² Among the channels won by Maritel are channels 87 and 88. Maritel asserts that the changes proposed by NTIA with respect to these channels are material.³

As noted by Maritel, the value bidders assign to spectrum is based on the FCC's rules in place at the time the spectrum is auctioned. Bidders formulate their business strategies by taking into account the impact of these regulations on the spectrum. If grant of the NTIA petition constitutes a substantial modification of the VPC spectrum rules, such action would be contrary to the public interest and establish a worisome precedent.

Significant post-auction changes to rules governing the use of spectrum would create uncertainty in the auction process, which would have a chilling effect on participation in future auctions. Further, it would undermine the FCC's efforts to encourage more efficient use of

² *Id.* at 2.

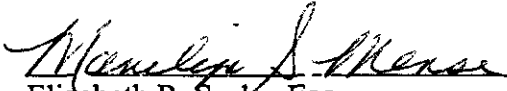
spectrum and defeat one of the underlying policy objectives of Section 309(j) of the Communications Act, which requires the Commission to promote the "rapid deployment of new technologies, products and services for the benefit of the public."⁴

III. CONCLUSION

For the reasons described herein, AMTA urges the Commission to proceed cautiously in considering whether to amend its rules consistent with the NTIA petition.

Respectfully submitted,

AMERICAN MOBILE TELECOMMUNICATIONS, INC.

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December 5, 2003

³ *Comments of Maritel, Inc.*, DA 03-3585 (Dec. 1, 2003).

⁴ 47 U.S.C. § 309(j).

CERTIFICATE OF SERVICE

I, Linda J. Evans, a secretary in the law office of Lukas, Nace, Gutierrez & Sachs, Chartered, hereby certify that I have, on this 11th day of December, 2003, caused to be mailed, postage pre-paid, a copy of the foregoing Comments to the follows:

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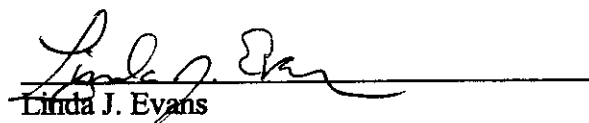
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